



1fw 3643

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

ANDERSON

Application No. : 09/886,234

Filed: 06/21/01

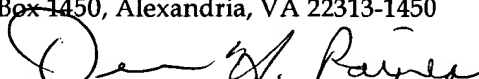
For: BREAKAWAY LINKS FOR  
UNDERWATER GEAR

Group Art Unit: 3643

Examiner: ROWAN, K.

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being faxed to 703-872-9306 and also deposited with the United States Postal Service as first class mail on December 23, 2004, with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

  
Dennis H. Rainear

Commissioner for Patents  
P.O. Box 1450,  
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

Sir:

This is in response to the non-final Office Action dated September 24, 2004.

The undersigned attorney thanks the Examiner for the helpful discussion on February 3, 2004.

The Examiner has determined that the reissue application is now based on a defective reissue oath since the claims have been canceled to now present only the originally allowed claim 1. This claim has also been re-allowed in the Examiner's earlier office action within this reissue application. Thus, applicant, after repeated telephonic communication by the undersigned attorney of record with the Examiner, has authorized the abandonment of the re-issue application in favor of

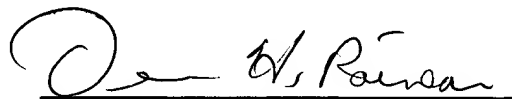
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maintaining the originally issued US Patent 5,913,670, which has not been delivered to the USPTO. It is well recognized and appreciated that the original patent remains presumptively valid, enforceable, and in force, and that there is no newly created prosecution history estoppel since the re-issue application did not mature into a granted patent. Thus the parent patent 5,913,670 still enjoys the benefits of the full scope of equivalents to which it was entitled based on its prosecution of the application number 08/770,592.

The applicant appreciates the repeated assurances of the Examiner and Supervisor Peter Poon that nothing further can or should be done to confirm the integrity and continued enforceability of US Patent 5,913,670. This patent remains available for additional non-exclusive licensing to all parties interested in using underwater gear embodying a breakaway link with the intent of reducing the risk of injury or death to whales and other cetaceans.

As this Response is submitted within the shortened statutory period, it is believed that no additional fees are due. In the event that the undersigned is mistaken in his calculations, an appropriate extension of time to respond is most respectfully requested and the Commissioner is authorized to bill any additional fees to deposit account No. 501890.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Dennis H. Rainear", is written over a horizontal line.

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Date: December 23, 2004